THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 4943 of 2007

DATED: 12-03-2007

Between:

K. Sabita

…Petitioner.

and

The Assistant Provident Fund Commissioner, Enforcement Circle-I, Employees P.F. Organization, Regional Office at 3-4-763, Bhavishyanidhi Bhavan, Barkatpura, Hyderabad and another.

…Respondents.

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 4943 of 2007

ORDER:

The petitioner is the daughter of late Sri K. Ramachandracharya, former Principal of the P.H.R.M. Degree College, Mahaboobnagar. The College fell in arrears of Provident Fund dues. Due process under the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short 'the Act') was initiated and, in exercise of the powers under Section 8 (B) of the Act, proceedings for recovery of a sum of Rs.10,55,251/- have been initiated. By the impugned proceedings dated 06.02.2007, the two properties mentioned in the proceedings are notified for sale, for recovery of the amounts due, under the provisions of the Act. The petitioner claims that these properties are residential properties whereat the petitioner is residing and are not liable to be sold for liquidating the liability of the P.H.R.M. Decree College to the Provident Fund Authorities. The petitioner is aggrieved that her claims and defences to the sale have not been considered.

Under Rule 11 of the II Schedule to the Income Tax Act, 1961, a procedure made applicable to recoveries under the provisions of the Act, any person, having a claim or objection to a process of sale for recovery of the amounts due under the provisions of the Act, is at liberty to lodge an objection, which the 2nd respondent is obligated to consider and take a decision upon. As a corollary of such obligation, the 2nd respondent must also record reasons and communicate the decision to the objector and, pending consideration of the objections, the 2nd respondent may not proceed

with the sale.

It is represented by Sri R.N. Reddy, the learned counsel for the 2nd respondent, that no auction of the properties is scheduled on 16.03.2007 as specified in the impugned notice.

Under the aforesaid circumstances, the writ petition is disposed of granting liberty to the petitioner to lodge objections/claims before the 2nd respondent within a period of two weeks from today. On such objections being lodged within the aforesaid period, the 2nd respondent shall consider the same, record a considered decision and shall pass a reasoned order on the claims or objections lodged by the petitioner. The decision of the 2nd respondent shall be communicated to the petitioner by Registered Post with Acknowledgment Due. Till such communication, the 2nd respondent shall not proceed to dispose of the properties.

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GODA RAGHURAM, J

12th March, 2007.

Note:-

Issue order copy
as soon as possible.

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